

## DEPARTMENT OF FINANCE BILL ANALYSIS

**AMENDMENT DATE:** July 2, 2008  
**POSITION:** Oppose

**BILL NUMBER:** AB 2874  
**AUTHOR:** S. Lieber

### **BILL SUMMARY:** Civil Rights: Damages

This bill would remove the \$150,000 limitation on actual damages that may be assessed by the Fair Employment and Housing Commission against a respondent who violates the Civil Rights Act of 2005. This bill also makes other technical and clarifying changes.

### **FISCAL SUMMARY**

This could increase the number of complaints filed with the Department of Fair Employment and Housing (DFEH) and subsequently brought before the Fair Employment and Housing Commission (Commission). While the DFEH indicates that the elimination of this limitation will result in minor and absorbable costs, it may require additional General Fund resources for the Commission.

### **COMMENTS**

Finance opposes this bill for the following reasons:

- It would impose additional General Fund costs to the Commission.
- It is unclear that the removal of the limitation is necessary as the Commission has only issued an award for monetary damages eight times during the last ten years and only twice awarded the maximum damages.

Existing law establishes the DFEH to receive and investigate housing and employment discrimination complaints and hate crimes under the Unruh Civil Rights Act. After the DFEH issues an accusation, they may litigate the case in a public hearing before the Commission. Existing law authorizes the commission to award or order reinstatement, back pay, out-of-pocket losses, affirmative relief, training, policy changes and emotional distress damages, and administrative fines. Existing law limits the emotional distress damages and administrative fines to a maximum of \$150,000 per respondent. This bill would remove the \$150,000 limitation for actual damages that may be assessed.

Existing law also authorizes the DFEH to issue a "right to sue" letter and allow a civil action to be brought before the court rather than through the state administrative process. There is no limitation to the amount of damages that can be awarded in a civil proceeding.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							
	LA	(Dollars in Thousands)							
	CO	PROP							Fund
	RV	98	FC	2008-2009	FC	2009-2010	FC	2010-2011	Code
1700/Fair Employ	SO	No		-----	No/Minor Fiscal Impact	-----			0001
1705/Fair Housing	SO	No		-----	See Fiscal Summary	-----			0001

Analyst/Principal (0240) K. Shelton	Date	Program Budget Manager Todd Jerue	Date
----------------------------------------	------	--------------------------------------	------

Department Deputy Director	Date
----------------------------	------

Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

**BILL ANALYSIS** Form DF-43 (Rev 03/95 Buff)